



Onyx Dkt No. ONYX1047.DIV  
USSN: 10/669,768  
PATENT

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Gary R. Fabian

Printed Name

*Gary R. Fabian*

9 October 2007

Signature

Date of Deposit

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: Shen, Y., et al.

Confirmation No. 8135

Serial No.: 10/669,768

Art Unit: 1633

Filing Date: 24 September 2003

Examiner: M. Marvich

Title: ADENOVIRUS E1B-55K SINGLE AMINO ACID MUTANTS AND  
METHODS OF USE

**RESPONSE TO NON-FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office action in the above-referenced application, mailed 9 May 2007. The response date with two-month extension is due Tuesday, 9 October 2007. A Petition for Extension of Time (for two-month) accompanies this response. Authorization to charge to Deposit Account No. 15-0615 for the required fee for the extension of time accompanies this paper in the petition. No additional fees are believed due; however, the Commissioner is hereby authorized to charge to Deposit Account No. 15-0615 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the issue fee.

Reconsideration of the application in view of the following amendments and remarks is respectfully requested.

### **Introductory Comments**

#### **I. Summary of the Office Action.**

In the Office action, mailed 9 May 2007, the Examiner asserted the following rejections:

The Examiner rejected claims 11, 12, 24, 28, 33, 39 and 40 under 35 U.S.C. §112, first paragraph, asserting that the specification, while being enabling for treatment of cancer characterized by p53 loss or deficiency by direct administration Onyx 051 and 053 (comprises a single amino acid substitution in amino acid 240 or 260), does not reasonably provide enablement for any other embodiment. The Examiner asserted that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims.

This rejection is traversed for reasons set forth herein below.

The Examiner indicated that claims 13, 25-27 and 35-38 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (Office action, dated 9 May 2007, page 6).